



# Public Notice

US Army Corps  
of Engineers

Sacramento District  
1325 J Street  
Sacramento, CA 95814-2922

Public Notice Number: Nationwide Permit  
Reissuance

Date: August 14, 2001  
Comments Due: September 24, 2001

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In reply, please refer to the Public Notice Number

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## **NATIONWIDE PERMIT REISSUANCE REQUEST FOR COMMENTS AND PUBLIC HEARING**

On August 9, 2001, the U.S. Army Corps of Engineers published in the *Federal Register* its proposal to reissue the Nationwide Permits (NWP).

The U.S. Army Corps of Engineers Headquarters Office will conduct a public hearing in Washington, D.C., on September 12, 2001, at the GAO Building, 7<sup>th</sup> floor auditorium. The intent of this hearing is to solicit public comments; both oral and written, on the NWP Program as a whole or on individually proposed NWPs on a national level. The public record for this hearing will conclude at close of business September 22, 2001. This date is separate from the *Federal Register* notice closing date for the receipt of written comments. For further information on the hearing or the proposed NWPs, please contact Mr. Rich White at (202) 761-4599, or Mr. Sam Collinson, at (202) 761-4594.

NWPs are general permits issued on a nationwide basis to authorize minor activities with minimal evaluation time. Some activities authorized by NWPs require pre-construction notification to the District Engineer before commencing with the work. This notification requirement to the District Engineer is necessary to ensure that activities authorized by these NWPs have minimal individual and cumulative adverse impacts on the aquatic environment.

This notice is the public's opportunity to comment on the proposed re-issuance of existing NWPs and conditions. Comments on national issues relating to these NWPs should be sent to the GAO Building, Office of the Chief of Engineers, Regulatory Branch (ATTN: CECW-OR), 441 G Street, N.W., Washington, D.C. 20314-1000. Comments on the proposed new and modified NWPs are due by September 24, 2001.

In addition to the NWP general conditions, Division Engineers are authorized to add regional conditions specific to the needs and/or requirements of a particular region or State. Regional conditions are an important mechanism to ensure that impacts to the aquatic environment authorized by the NWPs are minimal, both individually and cumulatively. Division Engineers may also suspend or revoke specific NWPs in certain geographic areas (e.g., States or

watersheds) or high-value aquatic systems where impacts authorized by those NWP's may be more than minimal. Enclosed to this public notice are the proposed regional conditions currently under consideration by the South Pacific Division for the Central Valley of California, Nevada and Utah. The Sacramento District is seeking comments on the need for regional conditions to help ensure that impacts authorized by the proposed NWP's are minimal. In response to the comments received on regional conditions, an additional public notice announcing any additional proposed regional conditions will be published. When the Division Engineer approves regional conditions, those regional conditions become effective when the final NWP's public notice is announced. Comments on regional issues pertinent to the proposed NWP's and regional conditions should be sent to Corps of Engineers, Sacramento District, ATTN: Regulatory Branch, 1325 J Street, Room 1480, Sacramento, CA 95814-2922, Phone (916) 557-5250. Comments are due by September 24, 2001. Similar public notices proposing regional conditions in other regions or States are being published concurrently by other division or district offices.

For those NWP's that result in a discharge into waters of the United States, individual Tribal or State Section 401 Water Quality Certification or waiver is required. Additionally, State Coastal Zone Management Act consistency concurrence or waiver is required for those NWP activities within or affecting the State's Coastal Zone. The Corps believes, in general, that these NWP's comply with State Water Quality Certification standards and are consistent with State Coastal Zone Management Plans. However, Corps Districts are working individually with the appropriate State or Tribal agencies to identify and resolve any issues before finalizing these NWP's.

Provisional determinations, including environmental documents, have been prepared indicating that these NWP's comply with the requirements for issuance under general permit authority. These documents, as well as the proposed NWP's and public hearing information, are available for viewing Corps of Engineers, Sacramento District, ATTN: Regulatory Branch, 1325 J Street, Room 1480, Sacramento, CA 95814-2922, Phone (916) 557-5250 or on the Internet at the addresses listed below.

The Corps will prepare final decision documents when the NWP's are issued or modified. These documents will be available as indicated in the preceding paragraph. Furthermore, the NWP decision documents will be supplemented by Division Engineers to address their decision concerning regional conditions of the NWP's

Enclosed is an index of the proposed NWP's and conditions. Anyone wishing to provide comments may obtain a full text copy of the NWP's through the Corps Home Page or GPO *Federal Register* address listed below.

*Internet addresses:*

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/>.

As an alternate, World Wide Web users can access the *Federal Register* through the Government Printing Office (GPO) at <http://www.access.gpo.gov/>.

**Index of Nationwide Permits, Conditions, Further Information, and Definitions*****Proposed Nationwide Permits***

1. Aids to Navigation
2. Structures in Artificial Canals
3. Maintenance
4. Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities
5. Scientific Measurement Devices
6. Survey Activities
7. Outfall Structures and Maintenance
8. Oil and Gas Structures
9. Structures in Fleeting and Anchorage Areas
10. Mooring Buoys
11. Temporary Recreational Structures
12. Utility Line Activities
13. Bank Stabilization
14. Linear Transportation Projects\*
15. U.S. Coast Guard Approved Bridges
16. Return Water From Upland Contained Disposal Areas
17. Hydropower Projects
18. Minor Discharges
19. Minor Dredging
20. Oil Spill Cleanup
21. Surface Coal Mining Activities\*
22. Removal of Vessels
23. Approved Categorical Exclusions
24. State Administered Section 404 Programs
25. Structural Discharges
26. *RESERVED*
27. Stream and Wetland Restoration Activities\*
28. Modifications of Existing Marinas
29. Single-family Housing
30. Moist Soil Management for Wildlife
31. Maintenance of Existing Flood Control Facilities\*
32. Completed Enforcement Actions
33. Temporary Construction, Access and Dewatering
34. Cranberry Production Activities
35. Maintenance Dredging of Existing Basins
36. Boat Ramps
37. Emergency Watershed Protection and Rehabilitation\*
38. Cleanup of Hazardous and Toxic Waste
39. Residential, Commercial, and Institutional Developments\*
40. Agricultural Activities\*
41. Reshaping Existing Drainage Ditches
42. Recreational Facilities\*
43. Stormwater Management Facilities\*
44. Mining Activities

***Nationwide Permit General Conditions***

1. Navigation
2. Proper Maintenance
3. Soil Erosion and Sediment Controls
4. Aquatic Life Movements\*
5. Equipment
6. Regional and Case-by-Case Conditions
7. Wild and Scenic Rivers
8. Tribal Rights
9. Water Quality\*
10. Coastal Zone Management
11. Endangered Species
12. Historic Properties
13. Notification\*
14. Compliance Certification
15. Use of Multiple Nationwide Permits.
16. Water Supply Intakes
17. Shellfish Beds
18. Suitable Material
19. Mitigation\*
20. Spawning Areas
21. Management of Water Flows\*
22. Adverse Effects from Impoundments
23. Waterfowl Breeding Areas
24. Removal of Temporary Fills
25. Designated Critical Resource Waters
26. Fills Within 100-year Floodplains\*
27. Construction Period \*

***Definitions***

Best Management Practices  
Compensatory Mitigation  
Creation  
Enhancement  
Ephemeral Stream  
Farm Tract  
Flood Fringe  
Floodway  
Independent Utility  
Intermittent Stream  
Loss of Waters of the United States  
Non-tidal Wetland  
Open Water  
Perennial Stream  
Permanent Above-grade Fill  
Preservation  
Restoration  
Riffle and Pool Complex  
Single and Complete Project

Stormwater Management  
Stormwater Management Facilities  
Stream Bed  
Stream Channelization  
Tidal Wetland  
Vegetated Buffer  
Vegetated Shallows  
Waterbody

**\* Proposed change, simplification or modification to NWP or General Condition**

## **PROPOSED NATIONWIDE PERMIT PROGRAM REGIONAL CONDITIONS**

### **I. Regional conditions to be applied across the entire Sacramento District:**

1. Nationwide Permits 14, 29, 33, 39, 40, 41, 42, 43, and 44 are withdrawn from use in histosols, including fens. For the use of all other nationwide permits in fens, project proponents are required to notify the Corps using the notification or PCN procedures of the nationwide permit program (General Condition 13). This will be a "Corps only" notification.

2. For all activities using any existing and proposed nationwide permits, mitigation that is required by special condition must be completed before or concurrent with project construction. Where project mitigation involves the use of a mitigation bank or in-lieu fee, payment must be made to the bank or fee-in-lieu program before commencing construction of the permitted activity.

3. For all nationwide permits requiring notification, except 27, the applicant must provide a written statement to the district engineer explaining how avoidance and minimization of losses of waters of the United States were achieved on the project site.

### **II. Regional conditions to be applied in California and Nevada:**

All existing and proposed nationwide permits are suspended in the Lake Tahoe basin in favor of using Regional General Permit 16.

### **III. Regional conditions to be applied in Utah**

For use of any nationwide permit with the following attributes, notification of the Corps of Engineers' Utah Regulatory Office, using the "Notification" procedures of the Nationwide Permit Program (General Condition 13), is required, except where certain nationwide permits are restricted and can not be used as indicated in each category. This will be a "Corps only" notification:

1. All activities that will affect waters of the U.S. below the elevation 4217 feet msl adjacent to the Great Salt Lake and below 4500 feet msl adjacent to Utah Lake.

2. Bank stabilization in a perennial stream that would affect more than 100 feet of stream length as measured from the upstream portion of the affected bank to the downstream section, narrow the cross-section of the stream, substantially reduce the riparian vegetation, or increase velocities.

3. All activities that will affect springs. A spring is an aquatic feature caused by ground water being discharged to the surface, creating wetland and/or stream characteristics. Nationwide Permits 14, 16, 18, 29, 33, 36, 39, 40, 42, 43, and 44 can not be used in spring areas.